

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ONLINE DVD RENTAL
ANTITRUST LITIGATION

MDL No. 09-2029 PJH

**SUPPLEMENT TO PRETRIAL
ORDER NO. 1**

This Document Relates to:

All Actions

The court is in receipt of plaintiffs' stipulation and proposed pretrial order no. 2 appointing interim lead class counsel and establishing plaintiff's organizational structure. Plaintiffs' stipulation is filed pursuant to pretrial order no. 1, issued by the court after the initial case management conference held on April 9, 2009. Although the court agrees with plaintiffs' proposed pretrial order no. 2 in principle, after further consideration the court declines to approve the stipulation in its current form, for the following reasons:

1. In view of the JPML panel's recent transfer of seventeen tag-along actions to this court, the court now extends for an additional thirty days from the date of this order the deadline for the filing of plaintiffs' stipulation regarding lead counsel (rather than "interim" counsel) and organizational structure, so that counsel for the tag-along matters may participate in the selection process.

2. As a result of the foregoing, the deadline for the filing of plaintiffs' consolidated complaint is similarly extended, to thirty days from the date that plaintiffs' stipulation regarding lead counsel and organizational structure is filed.

3. In addition, the court further declines to approve paragraph 11 of plaintiffs' proposed pretrial order no. 2, insofar as it proposes a separate counsel structure for the

1 four state law cases discussed therein, should their motion to remand be denied. As the
2 basis for removal was the parties' additional federal claims, there is no reason for the
3 federal claims to proceed along a separate track. The court will consider any proposal to
4 bifurcate and/or stay the state claims.

5 Plaintiffs' revised stipulation appointing lead counsel and establishing organizational
6 structure is accordingly due no later than **May 29, 2009**, with plaintiffs' consolidated
7 complaint due thirty days thereafter. Defendants, as set forth previously, have forty-five
8 days to respond to the consolidated complaint. All remaining provisions set forth in pretrial
9 order no. 1 remain valid.

10 Finally, ALL parties are instructed to begin filing all relevant documents pertaining to
11 the MDL litigation under MDL docket no. 09-2029 PJH, as that number has recently been
12 assigned to the instant litigation. The parties are reminded, however, that with respect to
13 all documents that pertain only to individual cases within the MDL, or which serve to
14 terminate individual cases within the MDL, these shall also be filed under the individual
15 docket number pertaining to such cases.

16 **IT IS SO ORDERED.**

17 Dated: April 30, 2009



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PHYLLIS J. HAMILTON
United States District Judge